

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NEW YORK

Return Date: January 9, 2018

Time: 10:00 am

Chapter 13

Case No.: 17-74991-las

-----X  
In re:

JOHN M. HOEK,

Debtor.  
-----X

**NOTICE OF MOTION FOR AN ORDER AVOIDING THE LIENS OF  
CITIBANK, N.A. AND ALADDIN FUEL SERVICE, INC.**

**PLEASE TAKE NOTICE**, that upon the annexed application of John M. Hoek (the “Debtor” herein) by his attorneys Richard L. Stern, P.C., the undersigned will move this Court before the Honorable Louis A. Scarcella, United States Bankruptcy Judge, on the **9th of January, 2018 at 10:00 am**, at the United States Bankruptcy Court, 290 Federal plaza, Courtroom 970, Central Islip, New York 11772, for an Order avoiding the liens of Citibank, N.A. and Aladdin Fuel Service, Inc.

**PLEASE TAKE FURTHER NOTICE** that objections, if any, to the relief sought must be in writing and filed with the Clerk of the Court, United States Bankruptcy Court, Eastern District of New York, 290 Federal Plaza, Central Islip, New York, 11722, (a)(i) through the Bankruptcy Court’s electronic filing system (in accordance with General Order M-242), which may be accessed (with a password which is available by contacting the Bankruptcy Court’s technical assistance at 631-712-6200, Monday through Friday, 8:30 a.m. to 5:00 p.m.) through the Internet at the Bankruptcy Court’s website: [www.nyeb.uscourts.gov](http://www.nyeb.uscourts.gov) using Netscape Navigator software version 3.0 or higher, and (ii) in portable document format (PDF) using Adobe Exchange software for conversion; or (b) if a party is unable to file electronically, such party shall submit the objection in PDF format on a diskette in an envelope with the case name, case number, type and title of document, document number of the document to which the objection refers, and the file name on the outside of the envelope; or (c) if a party is unable to file

electronically or use PDF format, such party shall submit the objection on a diskette in either Word, WordPerfect, or DOS text (ASC II) format. An objection filed by a party with no legal representation shall comply with section (b) or (c) as set forth in this paragraph. A hard copy of the objection, whether filed pursuant to section (a), (b), or (c), as set forth in this paragraph, shall be hand-delivered directly to the Chambers of the Honorable Louis A. Scarcella, and served so as to be received by Peter Corey, Esq., 2950 Express Drive South, Suite 109, Islandia, New York 11749 by no later than the 2nd of JANUARY, 2018.

Dated: December 6, 2017  
Islandia, New York

RICHARD L. STERN, P.C.  
*Attorneys for Debtor*

By: /s/ Peter Corey  
Peter Corey, Esq.  
2950 Express Drive South  
Suite 109  
Islandia, New York 11749  
(631) 549-7900  
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**APPLICATION IN SUPPORT OF MOTION FOR AN ORDER AVOIDING  
THE LIENS OF CITIBANK, N.A AND ALADDIN FUEL SERVICE, INC.**

PETER COREY, ESQ., the undersigned as attorney affirms the following under penalties of perjury:

1. I am an Associate of the firm of Richard L. Stern, P.C., attorneys for the Debtor in the above-captioned proceeding, and I am fully familiar with all the facts and circumstances herein.

2. I submit this application in support of an Order pursuant to 11 U.S.C. §506 reclassifying the mortgage claim of Citibank, N.A., and determining that the liens held by Citibank, N.A. and Aladdin Fuel Service, Inc. against the real property known as 543 Bayport Avenue, Bayport, NY 11705 are void.

3. The Debtor, John M. Hoek, resides at 543 Bayport Avenue, Bayport, NY 11705 (the "Property").

4. The Debtor owns the Property, which has a fair market value of \$315,000.00. A copy of an appraisal of the Property is annexed hereto as **Exhibit "A"**.

5. Upon information and belief, ABN Amro Mortgage Group, Inc./Planet Home Lending holds the first mortgage on the Property.

6. Based upon a mortgage statement from Planet Home Lending dated August 17, 2017, made part of this motion as **Exhibit "B"**, ABN Amro Mortgage Group, Inc. is owed approximately \$316,760.50 on the first mortgage.

7. Citibank, N.A. holds the second mortgage on the Property. The home equity loan dated August 10, 2006 dated ("Mortgage #2") was originally filed in the Suffolk County Clerk's Office on August 30, 2006 under Liber M00021373, Page 280 in the amount of \$42,000.00. Annexed as **Exhibit "C"** is a transcript of the recording of Mortgage #2. Based upon a statement from Citibank, N.A. dated December 16, 2016, Citibank, N.A. is owed approximately \$38,846.65, see **Exhibit "D"**.

8. Prior to the Debtor's bankruptcy filing, Aladdin Fuel Service, Inc. received a judgment against the Debtor in the amount of \$2,299.51. The transcript of this judgment is annexed as **Exhibit "E"**.

9. Because there is no equity in the Property to attach to the mortgage lien of Citibank, N.A., and the judicial lien of Aladdin Fuel Service, Inc., it is submitted that their claims are fully unsecured pursuant to 11 U.S.C. §506 and such liens are void.

**WHEREFORE**, in view of the foregoing, it is respectfully requested that this Court enter an Order reclassifying the mortgage claim of Citibank, N.A. as unsecured, and finding that the liens held by Citibank, N.A. and Aladdin Fuel Service, Inc. are void, along with such other and further relief as this Court deems just and proper.

Dated: December 6, 2017  
Islandia, New York

**RICHARD L. STERN, P.C.**  
*Attorneys for Debtor*

By: /s/ Peter Corey  
PETER COREY, ESQ.  
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